HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20592 of 2005

Dated 20th September, 2005

Between:

N. Satyanarayana .. Petitioner

And

The Commissioner for Prohibition and
Excise, Government of A.P., Hyderabad and
two others .. Respondents

HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20592 of 2005

ORAL ORDER:

This writ petition is filed challenging the order in Rc.No.369/2005/B1, dated 16.9.2005 passed by the 2nd respondent.

The learned counsel for the petitioner has contended that the Prohibition and Excise Superintendent, Kakinada, without giving any notice, passed the impugned order and thereby violated the

principles of natural justice. He has also contended that by the date of issuance of notification, the premises of the petitioner falls within the limits of 16th ward of Kakinada Municipality and licence was duly issued by the competent authority.

On the other hand, the learned Government Pleader for Prohibition and Excise has contended that under Section 63(1) of A.P. Excise Act, a statutory appeal lies to the Deputy Commissioner. Therefore, the writ petition is devoid of merits.

It is the contention of the petitioner that by the date of issuance of the notification, his premises fell in 16th ward and after Gazette Notification, which came into effect from 1.7.2005, his premises falls in 17th ward of Kakinada Municipality, and therefore, the 2nd respondent, without issuing any notice to the petitioner, passed the impugned order directing the petitioner to shift his premises to the place which falls within the limits of the 17th ward.

The impugned order is in the nature of final order. The principles of natural justice cannot be put straight in a jacket formula so as to apply in each and every case, but certainly when substantial right of the petitioner is being affected. Principles of natural justice demand that before any order adverse to a party is passed, he should be given a notice and provided an opportunity to put forth his version. Inasmuch as the impugned order was not preceded with any notice, the same suffers from the vice of violation of principles of natural justice.

Since it is only a direction to the petitioner to shift his premises from 16th ward to 17th ward, this Court is of the opinion that it will not affect any right of the petitioner. Therefore, this Court is unable to accept the contention of the petitioner and the writ petition is disposed of directing the petitioner to file a statutory appeal before the competent authority who has to decide the issue in question. No costs.

20.09.2005

bcj